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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,746	08/30/2001	Maria Azua Himmel	AUS920010451US1	9984

7590 05/12/2005

Duke W. Yee
Carstens, Yee & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380

EXAMINER

BARNIE, REXFORD N

ART UNIT PAPER NUMBER

2643

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,746

Applicant(s)

HIMMEL ET AL.

Examiner

REXFORD N. BARNIE

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-16,20-31 and 35-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-16,20-31 and 35-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Rexford N. Barnie
REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 15, 30 and 45 recites the limitation "wherein **the indication**" in these claims which have no support in their respective independent claims. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy (US Pat# 5,754,633).

Regarding claim 1, Levy teaches a method for achieving third party number call billing which includes party using a mobile phone comprising writing billing record to indicate that a second party (third party) has been billed for mobile airtime charges wherein the second party (third party) is not a party operating the mobile phone and also, no a party to a telephone conversation in (see figs., col. 1 lines 21-43). Also, note that a mobile phone, which incurs charges, can have its charges transfer to a party not participating a conversation using a billing number (credit card number or telephone number). The same can be applied to a wireline phone, which incurs charges.

Regarding claim 16, Levy teaches a method for achieving third party number call billing which includes party using a mobile phone comprising writing billing record to

indicate that a second party (third party) has been billed for mobile airtime charges wherein the second party (third party) is not a party operating the mobile phone and also, no a party to a telephone conversation in (see figs., col. 1 lines 21-43). Also, note that a mobile phone, which incurs charges, can have its charges transfer to a party not participating a conversation using a billing number (credit card number or telephone number). The same can be applied to a wireline phone, which incurs charges.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy (US pat# 5,754,633)

Regarding claim 31, see the explanation as set forth regarding claim 1 in addition the fact it's well known to use computer mediums including a bus, memory, processor in implementing instructions or performing call routing, billing or providing telephony services in general.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Levy into of any computer apparatus in order to provide flexibility in billing calls based on stored instructions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-9, 20-24 and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy et al. (US Pat# 5,754,633) in view of Florindi (US Pat# 5,898,771).

Regarding claim 5, Levy et al. fails to teach querying a second party (third party) to make sure that call charges would indeed be accepted.

Florindi teaches a method and apparatus for universal billing wherein a third party can queried for willingness to accept call charges in (see col. 12-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Florindi into that of Levy thus making it possible to avoid fraudulent charges by verifying billing account or willingness to accept charges to avoid loss of revenue.

Regarding claim 6, the combination teaches receiving approval from a third party but fails to teach in detail the possibility of using DTMF signaling. The examiner takes official notice that it's well known to use automated operator or attendant system to interact with subscribers by prompting to select a response by using one's keypad, an advantage being to reduce cost associated with human personnel.

Regarding claim 7, the combination renders obvious generating a total usage charges and billing it to a designated account.

Regarding claim 8, Based on the passage in (see col. 1 of levy and rest of disclosure), all charges including airtime charges can be transferred to a third party account.

Regarding claim 9, the combination teaches billing for toll calls or calls in general which incur charges.

Regarding claims 20-24, see the explanation as set forth above regarding claims 5-9.

Regarding claims 35-39, see the explanation as set forth regarding claims 5-9.

Claims 10, 25 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy (US Pat# 5,754,633) in view of over Gundlach (US Pat# 6,442,257).

Regarding claims 10 and 25, Levy fails to teach informing a party to a conversation that charges would be incur by the party. Note that some callers for instance using a mobile phone might not incur a charge (airtime).

Gundlach teaches a configuration wherein charges associated with a mobile service user can be charged to another party either fully or partially in (see figs., col. 1 line 50-col. 2 line 16, col. 3 lines 21-29). Gundlach teaches informing a party for instance that they would not incur charges.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to inform a party to a conversation of the fact that they would not incur charges thus enabling the party to continue with a call or to prevent the party from terminating the call earlier that one would have liked to.

Regarding claim 40, see the explanation as set forth regarding claim

Claims 11- 15, 26-30 and 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hata et al. (US pat# 5,602,907) in view of Levy (US Pat# 5,754,633).

Regarding claim 11, Hata teaches a method for accounting communication charges wherein a charge initially allocated to a calling party can be reversed to a called party as requested by the called party terminal in the middle of a call. Furthermore, the charge can initially be charged to either the calling or called party and then changed to another party in (see col. 2 lines 50-55, col. 15 and col. 3).

Hata, however, fails to teach being able to impose charges associated with a mobile to another terminal even though the claim doesn't call for mobile calling/called terminal.

Levy teaches a method for achieving call billing by terminal including mobile terminals wherein a call charge transfer request can be requested during the course of the call by a party to which call charges would be allocated in (see disclosure). Furthermore, call charges can be allocated to a party other than the requestor, which includes an alternate telephone number or credit card.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Levy into that of Hata thus making it possible to shift charges including mobile charges to another billing account to encourage users to use communication services even when they can't afford it.

Regarding claims 12-14 and 27-29, the combination renders obvious the possibility of transferring call charges to another terminal regardless of terminal being used.

Regarding claims 15 and 30, The combination teaches generating a call charge transfer signal for instance in the middle of a call as an indication that another party should be held accountable for charges. Furthermore, according to (see col. 3 lines 41-55 of Hata et al.), approval for call rate change can be requested from the other party involved in a communication.

Regarding claim 26, Hata teaches a method for accounting communication charges wherein a charge initially allocated to a calling party can be reversed to a called party as requested by the called party terminal in the middle of a call. Furthermore, the charge can initially be charged to either the calling or called party and then changed to another party in (see col. 2 lines 50-55, col. 15 and col. 3).

Hata, however, fails to teach being able to impose charges associated with a mobile to another terminal even though the claim doesn't call for mobile calling/called terminal.

Levy teaches a method for achieving call billing by terminal including mobile terminals wherein a call charge transfer request can be requested during the course of the call by a party to which call charges would be allocated in (see disclosure). Furthermore, call charges can be allocated to a party other than the requestor, which includes an alternate telephone number or credit card.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Levy into that of Hata thus making it possible to shift charges including mobile charges to another billing account to encourage users to use communication services even when they can't afford it.

Regarding claim 41, see the explanation as set forth in the rejection of claim 26 in addition to the fact implementing provisioning of services, billing and so forth in a telecommunications network using a computer apparatus including a bus, memory, CPU and so forth is notoriously well known and the examiner takes official notice to that effect.

Regarding claims 42-45, see explanation as set forth in rejecting the same claimed subject matter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is 571-272-7492. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE, 05/07/05


REXFORD BARNIE
PRIMARY EXAMINER